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January 23, 2026

Chair Andrea Lucas
U.S. Equal Employment Opportunity Commission
131 M Street, NE
Washington, DC 20507

Dear Chair Lucas,

I write with great alarm regarding the recent moves by the U.S. Equal Employment Opportunity Commission (EEOC or Commission) that signal its abandonment of its statutory mandate to enforce federal employment antidiscrimination laws and ensure that all workers have equal employment opportunities. The EEOC's mission, as stated on its website, is to "[p]revent and remedy unlawful employment discrimination and advance equal opportunity for all in the workplace."¹ After decades of expanding its reach, the Commission has inexplicably narrowed its mission, deciding that it would no longer enforce Title VII's prohibition against disparate impact discrimination², it is inviting only white men—who were always protected from discrimination by Title VII—to reach out to the EEOC with allegations of discrimination³; and it is rescinding guidance on what constitutes prohibited workplace harassment⁴.

The EEOC is the lead federal agency to enforce laws that ban employment discrimination based on race, color, religion, national origin, sex, pregnancy, age, disability, and genetic information. Created as part of the Civil Rights Act, the EEOC is the chief enforcer of Title VII, as well as:

- Equal Pay Act of 1963 (included in the Fair Labor Standards Act),
- Pregnancy Discrimination Act of 1978
- Age Discrimination in Employment Act of 1967
- Rehabilitation Act of 1973
- Americans with Disabilities Act of 1990

¹ <https://www.eeoc.gov/us-equal-employment-opportunity-commission-eeoc-strategic-plan-fiscal-years-2018-2022#mission>

² Rebecca Klarr, *EEOC to Close Workers' Disparate Impact Job Bias Charges*, Bloomberg Law (Sept. 19, 2025, 1:34 PM EDT), <https://news.bloomberglaw.com/daily-labor-report/eeoc-to-close-workers-disparate-impact-discrimination-charges>.

³ <https://x.com/andrealucasEEOC/status/2001439099907961012?s=20>

⁴ Notice of Open Commission Meeting, EEOC Commission Meeting (Jan. 22, 2026). <https://www.eeoc.gov/meetings/notice-open-commission-meeting>

- Genetic Information Nondiscrimination Act of 2008
- Lilly Ledbetter Fair Pay Act of 2009; and
- Pregnant Worker Fairness Act of 2023

Created in 1964, the EEOC laws apply to employers with at least 15 employees (20 employees in age discrimination cases). Most labor unions and employment agencies are also covered. EEOC enforces laws relating to hiring, firing, promotions, harassment, training, wages, and benefits. In addition to litigation, the EEOC can enforce the laws through cooperation, voluntary compliance, and conciliation efforts.⁵ The Commission also works to prevent discrimination before it occurs through outreach, education and technical assistance programs. It is because of the EEOC's enforcement of historic employment civil rights laws that America's workforce better reflects the nation's diversity.

Disparate Impact

In September 2025, the EEOC announced that, pursuant to an Executive Order issued by President Trump, it would end investigations where an employee alleges workplace discrimination based solely on a disparate impact analysis. This announcement came as an affront to Title VII of the Civil Rights Act and the mission of the EEOC, both of which have generally been held in high esteem by America's workers.

At the time of the drafting of Title VII, there were signs which were routinely posted barring the employment of Blacks, Jews, women and others. To address instances when a seemingly neutral policy or action caused disproportionate and unjustified negative harm to a protected group, regardless of intent, Title VII also bars what is called disparate impact. Importantly, these protections extend to all employees, as noted by Justice Ketanji Brown Jackson,

As a textual matter, Title VII's disparate-treatment provision draws no distinctions between majority-group plaintiffs and minority-group plaintiffs. Rather, the provision makes it unlawful to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin.⁶

In 1971, the Supreme Court upheld Title VII's disparate impact law in the *Griggs* decision by finding that "[w]hat is required by Congress is the removal of artificial, arbitrary, and unnecessary barriers to employment when the barriers operate invidiously to discriminate on the basis of racial or other impermissible classification." The Court expressly found that Title VII prohibits not "only overt discrimination but also practices that are fair in form, but discriminatory in operation."⁷ When Congress amended Title VII in 1991, it explicitly

⁵ See *Occidental Life Ins. Co. v. EEOC*, 432 U.S. 355, 367-68 (1977) ("Congress, in enacting Title VII, chose cooperation and voluntary compliance . . . as the preferred means of achieving its goals.") (internal quotation marks and citation omitted).

⁶ 42 U.S.C. § 2000e-2(a)(1); *Ames v. Ohio Dep't of Youth Servs.*, 605 U.S. 303, 303, 145 S. Ct. 1540, 1542 (2025)

⁷ *Griggs*, 401 U.S. at 431.

prohibited the form of discrimination known as “disparate impact”.⁸ Furthermore, the Supreme Court has repeatedly upheld and refined the disparate impact analysis under Title VII and other civil rights laws.⁹ Most recently, it reaffirmed the constitutionality of disparate impact analysis under the Fair Housing Act.¹⁰

Nonetheless, under your leadership, the EEOC has chosen to ignore the law and legal precedent to follow President Trump’s misguided directive to abandon workers who are experiencing discrimination.¹¹ It is in Executive Order 14281 that President Trump directly calls for the elimination of “the use of disparate-impact liability in all contexts to the maximum degree”. By closing these disparate impact discrimination charges, the Trump Administration is abandoning one of the most effective tools for rooting out and correcting entrenched bias and discrimination. This reported decision forces workers to defend their rights where there are clear patterns of discrimination, but when proof in their individual case might be elusive. This undermines decades of progress where the federal government served as a guardian and defender of equality in the workplace.

White-Males Only Review

In December 2025, the EEOC made a highly unusual appeal exclusively to white men asking them to report to the Commission allegations of employment discrimination directed at them as a protected class. Specifically, as Chair of the EEOC, you posted a video on the X platform stating:

Are you a white male who has experienced discrimination at work based on your race or sex? You may have a claim to recover money under federal civil rights laws. Contact the @USEEOC as soon as possible. The EEOC is committed to identifying, attacking, and eliminating ALL race and sex discrimination — including against white male employees and applicants.¹²

As noted above, white men are and have always been included in the scope of Title VII, since the inception of the law. However, your posted video missed an opportunity to convey to the entire American public that the enforcement of employment laws is a tool for all employees covered by Title VII – not just white men. Consider the fact that according to EEOC data furnished in preparation for last Fall’s federal government shutdown, the Commission had 1,924 total agency employees as of September 29, 2025.¹³ That figure is far short of the near 3,400 total employees

⁸ Civil Rights Act of 1991, Pub. Law 102-166, *codified at* 42 U.S.C. 2000e-2(k).

⁹ See, e.g., *Watson v. Fort Worth Bank & Trust*, 487 U.S. 977 (1988) (applying disparate impact analysis to subjective employment practices); *Albemarle Paper Co. v. Moody*, 422 U.S. 405 (1975); see also *Smith v. City of Jackson*, 544 U.S. 228 (2005) (upholding the disparate impact theory under the Age Discrimination in Employment Act).

¹⁰ *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 576 U.S. 519 (2015).

¹¹ *Restoring Equality of Opportunity and Meritocracy*, 90 Fed. Reg. 17537 (Apr. 28, 2025), <https://www.federalregister.gov/documents/2025/04/28/2025-07378/restoring-equality-of-opportunity-and-meritocracy>.

¹² <https://x.com/andrealucasEEOC/status/2001439099907961012>

¹³ <https://www.eeoc.gov/eeoc-contingency-plan-event-lapsed-appropriations-0>

the Commission employed in 1980.¹⁴ At a time when the EEOC is at historically low staff level, the Commission's 2024 Annual Performance Report notes that it had an astonishing 88,531¹⁵ charges. After retaliation, the largest number of charges are based on disability, race, and gender.¹⁶ EEOC's own data indicates that it receives relatively few complaints alleging discrimination against white workers.¹⁷

Given the naked data, one is left to wonder why you would request to hear charges expressly from white males when they have historically not been the driver of the charges of employment discrimination claims. Moreover, at a time when you requested a reduction in EEOC's funding and staff for fiscal year 2026, what then is your justification for prioritizing white males for EEOC claims review? It is reasonable to conclude that your stance was influenced by the Heritage Foundation's Project 2025 which called for the rolling back of employment discrimination laws on pages 582-584.¹⁸ Most recently, President Trump made the unfounded and audacious claim that "white people were very badly treated" because of civil rights laws.¹⁹

Harassment Guidance

On December 29, 2025, the EEOC sought the White House's approval to rescind its 2024 Workplace Harassment Guidance without affording the public the opportunity to provide comment.²⁰ In 2024, the Commission adopted the Harassment Guidance after receiving over 38,000 comments as part of its notice and comment period. Upon adoption, the Harassment Guidance served as an important resource for both workers and employers to provide clarity on the standards of harassment and employer liability under civil rights laws that the EEOC enforces. This comprehensive guidance described the requirements of federal law prohibiting workplace harassment of all protected classes under the EEOC's jurisdiction and provided information, including 70 examples, to educate employers and employees about preventing and addressing harassment at work.

Workplace harassment is one of the most serious forms of discrimination that EEOC addresses and one of the most frequent. Between FY 2016 and 2023, over one in three discrimination charges received by the EEOC included an allegation of harassment based on race, gender, or other characteristics.²¹ The Harassment Guidance that is planned to be rescinded on January 22, 2026, was the first update in nearly a quarter of a century and provided information that was vital to employers and employees. Last week, you announced an EEOC meeting for January 22, 2026, to rescind this Harassment Guidance without providing a notice and comment period. This

¹⁴ <https://www.eeoc.gov/eeoc-budget-and-staffing-history-1980-present>

¹⁵ <https://www.eeoc.gov/2024-annual-performance-report>

¹⁶ <https://www.eeoc.gov/data/enforcement-and-litigation-statistics-0>

¹⁷ Noam Scheiber, Will White Men Rush to Court After Justices' Latest Ruling? Not Likely. New York Times (June 6, 2025), <https://www.nytimes.com/2025/06/06/business/supreme-court-discrimination-ruling.html>; Jessica Guynn, Trump says DEI, civil rights policies hurt White people. Do They? USA Today (Jan. 12, 2026) <https://www.usatoday.com/story/money/2026/01/12/dei-civil-rights-trump-white-people/88147329007/>.

¹⁸ https://static.heritage.org/project2025/2025_MandateForLeadership_FULL.pdf

¹⁹ <https://www.nytimes.com/2026/01/11/us/politics/trump-interview-white-people-discrimination.html>

²⁰ Notice of Open Commission Meeting, EEOC Commission Meeting (Jan. 22, 2026).

<https://www.eeoc.gov/meetings/notice-open-commission-meeting>

²¹ See EEOC, *Enforcement and Litigation Statistics*, <https://www.eeoc.gov/data/enforcement-and-litigation-statistics-0> (last visited January 15, 2026).

departure from process will leave the public without a way to provide meaningful input into the decision to rescind the guidance.

On November 24, 2025, I wrote to you to express my opposition to this rescission.²² In that letter, I reminded you of the mission of the Commission and urged you to retain the Harassment Guidance to fully protect workers from discrimination, including harassment in the workplace, or at least provide for appropriate notice and comment, so that the public can be heard on the proposal. Moving ahead to rescind the Harassment Guidance without public input is a stain on the Commission's storied legacy and contrary to EEOC's very existence.

That this clandestine action is taking place during the week this nation honors the legacy of Dr. Martin Luther King Jr. can only breed cynicism. For sixty years the EEOC has been among the leading agencies focused on bending the arc of the history of this country toward justice. It is imperative that, under your leadership, you discontinue the path of derailing the importance of disparate impact litigation, faithfully executing EEOC's law to all of its protected classes, and retain the 2024 Harassment Guidance. For the reasons stated above, I strongly urge you to reverse course and recalibrate your approach toward this honored Commission that has held a position of public trust for more than 60 years.

Sincerely,



ROBERT C. "BOBBY" SCOTT
Ranking Member

²² https://democrats-edworkforce.house.gov/imo/media/doc/ranking_member_scott_letter_to_eeoc_re_harassment_guidance.pdf